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SERIAL NUMBER

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WEINER

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MOHAMED, A

185

10/01/91

for restriction purpose only

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final

A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-19 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-19 are subject to restriction or election requirements.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received. ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other _____

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Claim 1 is generic to a plurality of disclosed patentably distinct species comprising specie I, myasthenia gravis (claim 2); specie II, Rheumatoid arthritis (claims 2 and 14); specie III, diabetes mellitus (claim 2); specie IV, systemic lupus erythematosus (claim 2); specie V, multiple sclerosis (claim 2, 13 and 15-19); specie VI, autoimmune hemolytic anemia (claim 2); specie VII autoimmune thyroiditis and specie VIII, contact sensitivity disease (claim 3-5). Claim 1 and 6-12 will be examined along with any elected specie. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Species I, II, III, IV, V, VI, VII and VIII are independent and distinct inventions which differs in their chemical compositions and functions and are capable of separate manufacture, use and sale, and are novel and unobvious over each other.

In view of the extremely large number of species encompassed by claims 1-19 an undue burden is placed on the Examiner in searching and consideration of the issues to examine these species in a single application. Applicants attention is

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directed to MPEP 803.02 and 806.04.


Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdel A. Mohamed whose telephone number is (703) 308- 2957.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.


JOHN DOLL
SUPERVISORY PATENT EXAMINER
ART UNIT 189B


Mohamed/vb
September 30, 1991